

AG Contract No.: KR05-0228TRN
ADOT ECS File No.: JPA 04-147
Project No.: TEA-KNG-0(007)
Project: Kingman Railroad Pathway
Section: Kingman Train Depot. ~
Kingman Powerhouse
alignment to 1st Street – Phase I
TRACS No.: SL520 01C/01R
SL520 01D/02D
Budget Source Item No.: N/A

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF KINGMAN

THIS AGREEMENT is entered into 5th May, 2005, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN, ARIZONA acting by and through its MAYOR and CITY COUNCIL (the "CITY").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 and § 28-334 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.
3. Congress has authorized appropriations for, but not limited to, twelve eligible categories of transportation enhancement activities
4. A project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the State and Federal Highway Administration (FHWA) for their approval.
5. The City, in order to obtain federal funds for the construction of the project, is willing to provide City funds to match federal funds in the ratio required or as finally fixed and determined by the City, State and FHWA, including actual construction engineering (CE) and administration costs.
6. The interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

NO. 27496
Filed with the Secretary of State
Date Filed: 05/05/05

Janice K. Brewer
Secretary of State

By: David D. Brauerwald

7. The work encompassed in this Agreement consists of a land acquisition for approximately 1.8 acres, design and construct a 1,600 foot long, 10 foot wide multi-use pathway along south side of State Route (SR) 66, between Kingman Train Depot and Kingman Powerhouse, hereinafter referred to as the "Project". The Project includes landscaping, irrigation, pedestrian lighting and site furnishings. The City will be the lead agency to design, construct and maintain the Project; provide electrical power, water connections as necessary, landscaping and irrigation to the Project area. The estimated costs are as follows:

Land Acquisition – TRACS No.: SL520 01R:

Estimated Land Acquisition Cost	\$167,500.00
Federal-aid funds @ 94 3% of \$167,500.00	<u>\$157,953.00</u>
<i>Estimated City of Kingman fund @ 5.7% of \$167,000.00</i>	<i>\$ 9,548.00</i>

Design – TRACS No.: SL520 02D:

Estimated Design Cost	\$25,000.00
Federal-aid funds @ 94 3% of \$25,000.00	<u>\$23,575.00</u>
<i>Estimated City of Kingman fund @ 5.7% of \$25,000.00</i>	<i>\$ 1,425.00</i>

Construction - TRACS No.: SL520 01C

Estimated Construction Cost (includes 15% CE cost)	\$294,039.00
Federal-aid funds @94 3% of \$294,040.00	<u>\$277,280.00</u>
<i>Estimated City of Kingman fund @ 5.7% of \$294,040.00</i>	<i>\$16,760.00</i>

<i>Total Estimated City of Kingman funds</i>	<i>\$27,733.00</i>
Total Federal Funds Capped	\$458,807.00

8. It is understood and acknowledged by both parties that the above estimated costs for acquisition, design and construction are estimates only, and that funds can be moved among categories as long as the federal aid cap for the Project is not exceeded.

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The City shall:

a. Be responsible to provide design plans, specifications and such other contract documents and services required for construction bidding and construction. Incorporated or resolve State's review comments.

b. With the aid and consent of the FHWA and the State using Arizona Procurement Procedures, proceed to design, advertise for, receive and open bids, subject to the concurrence of FHWA and the State. Enter into contract(s) with a firm(s) to whom the award is made for the construction of the Project. The Project will be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans and Special Provisions at the lowest responsive bid price.

c. Upon execution of this Agreement, invoice the State for the progress payments not to exceed the total estimated cost of \$458,807.00 of federal funds addressed under this Agreement. The City is entirely responsible for all costs incurred in performing and accomplishing the work as set forth in this Agreement whether covered by federal funding or not.

d. In accordance with State requirements, submit to State requests for reimbursement of approved expenditures related to construction of the Project along with backup documentation of proof of payment.

e. Provide personnel to administer and supervise construction. All construction Project change orders are to be copied to the State. The FHWA will participate in the construction administration cost provided by the City for the Project, currently estimated at 15% of the construction cost.

f. Acquire any necessary right-of-way and hereby certifies that all necessary rights-of-way have been or will be acquired prior to advertisement for bids and shall remove from the proposed right-of-way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the Project area, and hereby certifies that all obstructions and encroachments have been or will be removed therefrom as part of the construction of this Project. It is understood that a building known as the Flying K real estate building will remain on the property and is not considered an encroachment.

g. Not permit or allow any encroachments, except those authorized by permit, upon, or private use of, the right of way. In the event of any unauthorized encroachment or improper use, the City shall take all necessary steps to remove or prevent any such encroachment or use.

h. Consent to any inspections performed by the State, provide records or audit any books of the City in order for the State to assure itself that the monies on the Project have been spent and the Project completed in accordance with the plans and specifications, statutes, rules and regulations of the State and federal government.

i. Should unforeseen conditions or circumstances increase the cost of said Project such that a change in the extent or scope of work called for in this Agreement become necessary, the City shall be obligated to incur and pay for said increased costs.

j. Should costs exceed the maximum federal funds available, it is understood and agreed that the City will be responsible for any overage.

k. Furnish all water for landscape installation during the construction phase.

l. Provide electrical power and water during and after the construction phase and provide landscape maintenance after the Landscape Establishment phase, all at the City's expense.

m. Upon completion and acceptance of the Project, provide for, at its own cost and as an annual item in its budget, perpetual and proper maintenance. Maintenance will consist of the care and good repair of all Project features listed above and the landscaping in accordance with accepted horticultural practices, keeping all areas in good repair, free of weeds, undesirable grasses and litter, applying irrigation water, furnishing and applying insecticide/herbicide sprays and dust to combat diseases and other pests, pruning and replanting as required to maintain the landscaping as it was designed and established at the completion of the Project. The Agreement may be assumed by another governmental entity under the same stipulations.

n. Agree to perform maintenance as required to maintain the safety and visual quality as the Project was designed and established at the completion of the Project.

o. Allow free public access to the Project improvements during normal business hours.

2 The State shall:

a. Agree to be the City's authorized agent for the Project and submit a program containing the aforementioned Project to FHWA with the recommendation that it be approved for design and construction.

b. Approve the Project if such project design and construction funds are available by FHWA for design and construction of the Project. The State and FHWA hereby designate the City as lead agent to contract for and self-administer the Project.

c. Enter into a Joint Project Agreement (JPA) with FHWA on behalf of the City covering the work encompassed in said construction contract and request the authorized federal funds available, including construction engineering and administration costs.

d. Upon execution of this Agreement, make payments to the City up to a maximum not to exceed the federal aid funds shown for the direct actual cost of the construction of the Project, including construction engineering, after receipt and approval of a reimbursement request.

e. Not be obligated to maintain said Project, should the City fail to budget or provide for proper and perpetual maintenance as set forth in this Agreement.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this Agreement, nor for any resulting construction project. The City, in regard to the City's relationship with the State only, assumes full responsibility for the design, plans, specifications, reports, the engineering in connection therewith and the construction of the improvements contemplated, cost over-runs and construction claims. The City shall require its contractors to name the State and ADOT as an additional insured in the contractor's policies. The City shall also require its contractors to name the State and ADOT as an additional indemnitee in the City's contracts with its contractors. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City and that to the extent permitted by law, the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, misrepresentation, directives, instruction or event arising out of the performance or nonperformance of any provisions of this Agreement by the State, any of its departments, agencies, officers and employees the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation and attorneys' fees.

2. The terms, conditions and provisions of this Agreement shall remain in force and effect until completion of said Project and related reimbursement, except any provisions for maintenance, water and electrical power shall be perpetual, unless assumed by another competent entity. Further, this Agreement may be canceled at any time prior to the award of the project construction contract, upon thirty (30) days written notice to the other party. It is understood and agreed that, in the event this Agreement is terminated by the City, the State shall in no way be obligated to maintain said Project.

3. This Agreement shall become effective upon filing with the Secretary of State.

4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

7. Non-Availability of Funds. Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue Mail Drop 616E
Phoenix, AZ 85007
FAX: (602) 712 7424

City of Kingman
City Manager
310 North 4th Street
Kingman, Arizona 86401

10. Pursuant to Arizona revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

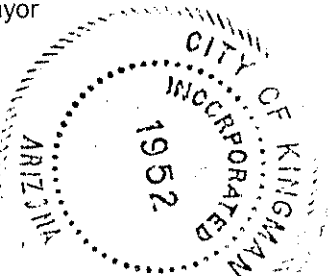
CITY OF KINGMAN

STATE OF ARIZONA
Department of Transportation

By Monica Gates
MONICA GATES
Mayor

By Susan Tellez
SUSAN TELLEZ
Contract Administrator

ATTEST



By Toni Weddle
TONI WEDDLE
City Clerk

CITY OF KINGMAN
City Council Chambers - 310 N. 4th Street

REGULAR MEETING OF THE COMMON COUNCIL

6:00 P.M.

AMENDED AGENDA

Monday, April 4 , 2005

CALL TO ORDER & ROLL CALL

INVOCATION will be given by Gloria Troy of the Ba'hai Faith

PLEDGE OF ALLEGIANCE

THE COUNCIL MAY GO INTO EXECUTIVE SESSION FOR LEGAL COUNSEL IN ACCORDANCE WITH A.R.S.38-431.03(A)(3) TO DISCUSS ANY AGENDA ITEM. THE FOLLOWING ITEMS MAY BE DISCUSSED, CONSIDERED AND DECISIONS MADE RELATING THERETO:

1. **APPROVAL OF MINUTES (March 21, 2005)**

2. **CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC**

Those wishing to address the Council should fill out request forms in advance. Action taken as a result of public comments will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments should be limited to no longer than 5 minutes.

3. **CONSENT AGENDA**

All matters listed here are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the CONSENT AGENDA and will be considered separately.

a) **Liquor License -- Extension of Premises**

Deborah Barry, agent and applicant for Maddog's Doghouse, 2829 Beverly, is requesting an extension of premises for their liquor license on April 9th for a Poker Run, and again on the weekend of April 22nd & 23rd for the Laughlin River Run.

b) Acceptance of deed of dedication from Stockmen's Bank, 3825 Stockton Hill Rd., for traffic signal

c) Acceptance of grant of easement from Stockmen's Bank, 3825 Stockton Hill Rd., for traffic signal and loop detectors

d) Acceptance of grant of easement from Brinkers Restaurant Corp (Chili's) for traffic signal and loop detectors

e) Acceptance of deed of dedication from Brinkers Restaurant Corp (Chili's) for traffic signal

f) Authorization for the Mayor to sign JPA 04-147 with ADOT for the Kingman Railroad Pathway project

g) **Resolution No. 4107**

-request to modify improvement plans for road cross-section on Mission Blvd., Mission Hills II, Tr 1992

h) **Resolution No. 4108**

-request to release property escrow assurance and accept separate assurance for the remaining uncompleted improvements for Fripps Ranch, Tract 1964-C

i) **Resolution No. 4109**

Authorizing KPD to pursue Governor's Office Highway Safety Program Grant funding for FY 05/06, to fund the Simulated Impaired Driving Experience (SIDNE) -- to be used training local youth

water service for the KRMCM Woman's Center

j-2) **Resolution No. 4103**

water service for a proposed subdivision, to be called Prairie Heights Est.

j-3) **Resolution No. 4105**

water service for Eagleview Subdivision, Tr. 1997, located in the NE ¼ Sec 19, T22N, R16W

j-4) **Resolution No. 4106**

water service for Southern Vista II, Tr. 1999, N½ E ½ Sec 20, T21N, R16W

j-5) **Resolution No. 4091**

water service to a new subdivision known as Clearview Estates, Tract 1998, NW ¼ Sec 17, T21N, R16W

k) **ACCOUNTS PAYABLE CLAIMS** - certifiers are French and Carter

New Business: (for review, comment and/or action)

4. **Ordinance No. 1478**

B waive underground electrical requirement at 2000 Arlington, as requested by Robert Steele

5. **Ordinance No. 1477**

Amending the City Code as it relates to building permit fees

6. **PUBLIC HEARINGS on Planning and Zoning Commission Recommendations**

a) **Resolution No. 4090**

Appeal of administration determination on a Hualapai Mountain Road design review for the proposed Dollar General store at 2645 Hualapai Mountain Road regarding exterior design, parapet, metal roof and other design issues.

b) **Ordinance No. 1476**

A request from Stockton Jagerson, LLC, property owner, and Mohave Engineering Associates, Inc., applicant, for the rezoning of certain property from R-R: Rural Residential to R-1-8: Residential, Single Family, 8,000 square foot lot minimum. The proposed rezoning would allow for consideration of a preliminary plat for Eagle View, Tract 1997. The subject property totals 113.25 acres in size and is located east of Stockton Hill Road and north of Jagerson Avenue beyond Mohave Community College. The subject property is further described as a portion of Government Lots 4 & 5, Section 19, T.22N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

c) **Resolution No. 4092**

PRELIMINARY PLAT FOR EAGLE VIEW, TRACT 1997: A request from Stockton Jagerson, LLC, property owner and subdivider, and Mohave Engineering Associates, Inc., project engineer, for approval of a preliminary plat for a single family residential subdivision to be known as Eagle View, Tract 1997. The subject property totals approximately 86.19 acres in size and is located east of Stockton Hill Road and north of Jagerson Avenue beyond Mohave Community College. The subdivision is proposed to have 327 single family residential lots ranging from 9,144 to 22,948 square feet in size. The subject property is further described as a portion of Government Lots 4 & 5, Section 19, T.22N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

d) **Resolution No. 4093**

PRELIMINARY PLAT FOR LA COSTA, TRACT 6000: A request from Kenneth R. Herskind, property owner, and Double R Engineering, Inc., project engineer, for approval of a preliminary plat for a multiple family residential subdivision to be known as La Costa, Tract 6000. The subject property totals approximately 12.90 acres in size and is located north of Wilshire Avenue, east of Harvard Street, west of Fairfax Street and south of Sycamore Avenue. The subdivision is proposed to have 58 multiple family lots ranging from 6,000 to 8,648 square feet in size. The subject property is further described as a portion of the Northwest Quarter of the Southeast Quarter of Section 12, T.21N., R.17W., of the G. & S.R.M., Mohave County, Arizona.

e) **Resolution No. 4094**

PRELIMINARY PLAT FOR GRANITE BLUFFS III, TRACT 1996: A request from Kingman Associates III, LLC,

approximately 34.54 acres in size and is located south of Mission Boulevard and west of Granite Bluffs, Tract 1979. The subdivision is proposed to have 83 single family residential lots ranging from 10,000 to 55,700 square feet in size. The subject property is further described as a Portions of Government Lots 6, 7, 10 and 11, Section 19, T.21N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

f) Resolution No. 4095

PRELIMINARY PLAT FOR SOUTHERN VISTA II, TRACT 1999: A request from First American Title Insurance Agency of Mohave, property owner, and Mohave Engineering Associates, Inc., project engineer, for approval of a preliminary plat for a single family residential subdivision to be known as Southern Vista II, Tract 1999. The subject property totals approximately 24.00 acres in size and is located east of N. Central Street and north of Karen Avenue. The subdivision is proposed to have 98 single family residential lots ranging from 6,700 to 16,402 square feet in size. The subject property is further described as a portion of the North Half of the East Half of Section 20, T.21N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

g) Resolution No. 4096

A request from Smith and Sons Builders, applicant, and Diane Noyse, property owner, for a Conditional Use Permit to allow construction of an attached residential garage and breezeway to a residence on property zoned C-2: Commercial, Community Business. The subject property totals 8,214 square feet in size and is located at 632 E. Beale Street. The subject property is further described as Kingman Terrace Addition, Block 5, Lot 8.

h) Resolution No. 4097

A request from England Holding Company, adjacent property owner and applicant, for approval of the abandonment of a portion of Parcel "B", in Arroyo Vista, Tract 1977. This abandonment is proposed to allow for the placement of a permanent entry identification sign for a residential subdivision, Arroyo Vista, Tract 1977. The easement is located at the corner of Arroyo Vista Lane and Hualapai Mountain Road within a portion of the SW ¼ of Section 20, T.21N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

i) Ordinance No. 1479

A proposed text amendment to the Kingman Zoning Ordinance Section 26.000: General Development Standards concerning modification of setback requirements for swimming pools from structures on residential properties.

j) Resolution No. 4099

A request for a Conditional Use Permit to allow a community center and recreational facility for Castle Rock Village, Tract 1990, on property zoned R-1-8

7. CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC

Those wishing to address the Council should fill out request forms in advance. Action taken as a result of public comments will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments should be limited to no longer than 5 minutes.

8. Reminder of meeting on April 8th for the continuation of the council advance with Mike Letcher.

9. ANNOUNCEMENTS BY MAYOR & COUNCILMEMBERS

10. EXECUTIVE SESSION (per A.R.S. ' 38-431.03 A.3 and A.4)

-Legal Advice/contract negotiations – Airway Underpass

ADJOURNMENT

POSTED: _____ by _____

CITY OF KINGMAN

REGULAR MEETING OF THE COMMON COUNCIL

6:00 P.M.

Minutes

Monday, April 4, 2005

Members:	Officers:	Visitors Signing In:
M. Gates, Mayor	P. Beecher, City Manager	See attached list
T. Spear, Vice Mayor	T. Duranceau, P & Z Director	
J. Baker	A. Gray, Deputy City Clerk	
T. Carter	C. Loyd, Finance Director	
R. Lyons	D. Roberts, Comm. Dev. Dir.	
P. Moon	R. Taylor, City Attorney	
D. French	T. Weddle, City Clerk	

Mayor Gates called the meeting to order at 6 p.m. and roll call was taken. All Council Members were present. The invocation was given by Ms. Gloria Troy of the Bahai Faith, after which, the Pledge of Allegiance was said in unison.

1. **APPROVAL OF MINUTES (March 21, 2005)**

Vice Mayor Spear made a MOTION to APPROVE the minutes of March 21, 2005 as written. Councilmember Carter SECONDED and it was UNANIMOUSLY APPROVED.

2. **CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC**

There were no Calls to the Public at this time.

3. **CONSENT AGENDA**

a) **Liquor License – Extension of Premises**

-Deborah Barry, agent and applicant for Maddog's Doghouse, 2829 Beverly, is requesting an extension of premises for their liquor license on April 9th for a Poker Run, and again on the weekend of April 22nd & 23rd for the Laughlin River Run.

b) Acceptance of deed of dedication from Stockmen's Bank, 3825 Stockton Hill Rd., for traffic signal

c) Acceptance of grant of easement from Stockmen's Bank, 3825 Stockton Hill Rd., for traffic signal and loop detectors

d) Acceptance of grant of easement from Brinkers Restaurant Corp (Chili's) for traffic signal and loop detectors

e) Acceptance of deed of dedication from Brinkers Restaurant Corp (Chili's) for traffic signal

f) Authorization for the Mayor to sign JPA 04-147 with ADOT for the Kingman Railroad Pathway project

g) **Resolution No. 4107**

-request to modify improvement plans for road cross-section on Mission Blvd., Mission Hills II, Tr 1992

h) **Resolution No. 4108**

-request to release property escrow assurance and accept separate assurance for the remaining uncompleted improvements for Fripps Ranch, Tract 1964-C

i) **Resolution No. 4109**

Authorizing KPD to pursue Governor's Office Highway Safety Program Grant funding for FY 05/06, to fund the Simulated Impaired Driving Experience (SIDNE) – to be used training local youth

Municipal Utilities Commission Recommendations

j-1) **Resolution No. 4102**

water service for the KRMC Woman's Center

j-2) **Resolution No. 4103**

water service for a proposed subdivision, to be called Prairie Heights Est.

j-3) **Resolution No. 4105**

water service for Eagleview Subdivision, Tr. 1997, located in the NE ¼ Sec 19, T22N, R16W

j-4) **Resolution No. 4106**

water service for Southern Vista II, Tr. 1999, N½ E ½ Sec 20, T21N, R16W

j-5) **Resolution No. 4091**

water service to a new subdivision known as Clearview Estates, Tract 1998, NW ¼ Sec 17, T21N, R16W

k) **ACCOUNTS PAYABLE CLAIMS - \$488,335.70**

Mayor Gates requested that Item H, Resolution No. 4108, be pulled for clarification

Councilmember French made a MOTION to APPROVE the Consent Agenda with the exception of Item H, Resolution No. 4108. Vice Mayor Spear SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4107)

(Resolution No. 4109)

(Resolution No. 4102)

(Resolution No. 4103)

(Resolution No. 4105)

(Resolution No. 4106)

(Resolution No. 4091)

Item H:

Planning and Zoning Director Tom Duranceau stated that the cash assurance in the amount of \$33,000 was delivered to his office today.

After no further discussion, Councilmember French made a MOTION to APPROVE Item H, Resolution No. 4108. Councilmember Carter SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4108)

New Business: (for review, comment and/or action)

4. **Ordinance No. 1478**

– waive underground electrical requirement at 2000 Arlington, as requested by Robert Steele

City Manager Paul Beecher stated that Staff recommends approval of Ordinance No. 1478.

After no further discussion, Councilmember Carter made a MOTION to APPROVE Ordinance No. 1478. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

(Ordinance No. 1478)

5. **Ordinance No. 1477**

Amending the City Code as it relates to building permit fees

Paul Beecher stated that Staff recommends approval of Ordinance No. 1477. Vice Mayor Spear stated that he would like to see the fee table change as the ISO rates change. Paul stated that this could be done.

After no further discussion, Vice Mayor Spear made a MOTION to APPROVE Ordinance No. 1477. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

(Ordinance No. 1477)

6. **PUBLIC HEARINGS on Planning and Zoning Commission Recommendations**

a) **Resolution No. 4090**

Appeal of administration determination on a Hualapai Mountain Road design review for the proposed Dollar General store at 2645 Hualapai Mountain Road regarding exterior design, parapet, metal roof and other design issues.

Tom Duranceau stated that Staff and the applicant have reached a point where they do not agree with the Hualapai Mountain Road Design Review Corridor. The applicants have proposed a 9,014 square foot retail structure placed on an acre lot at the corner of Hualapai Mountain Road and Adams Street. The applicant is being requested to have parapets on all four sides of the building; not just the front. Submitted plans involve design modifications to Dollar General's standardized building plans, an example of which is currently in operation on both north Stockton Hill Road and in Golden Valley. Ventilation and mechanical equipment have either been placed behind screens or moved to the interior. Exterior details involve stucco siding with popouts, a front porch with wood timbers supporting a standing seam metal roof and a front façade with a varied parapet and wood vigas. The roof and building cap were proposed to be made of a standing seam type metal roofing material.

In the rezoning phase, the condition "The Design Review Corridor Criteria of Section 35 of the Kingman Zoning Ordinance shall apply to all sides of the development," was applied under Ordinance No. 1421. While the applicants have presented a building permit application to the City of Kingman which includes numerous elements of design that incorporate a southwestern theme to the structure, Staff felt that the front façade should be applied to all four sides, as per Ordinance No. 1421. The developer responded that they "...cannot provide a parapet on the side of this building without major structural changes to our roof drainage system," and requested approval of the current plans.

In the interest of expediting the project and in accord with Section 35.500 "Appeals", the Planning Staff decided to present this design issue to the Planning and Zoning Commission for their interpretation. The decision option recommended by the Planning Commission was that the parapet be applied to all sides of the structure.

Councilmember Moon stated that the Zoning Ordinance does not say that parapets are required on all four sides. Moon also stated that as long as the color of the building and the intent of the ordinance is followed, he sees no problem with the original plans.

The Public Hearing was opened. Citizen comments included:

Mario Delfiaccio, 2940 Horseshoe Trail, TX, a representative of Dollar General, expressed his opinion and appeal of the administrative decision to require parapets on all four sides of the building. He stated that the plans for the Dollar General store on Hualapai Mountain Road were submitted before the Ordinance was passed in April of 2004. He felt that since the Ordinance was passed after his plans were submitted, that they should be able to construct the store according to the original plans. He stated that Section 35 of the Kingman Zoning Ordinance does not state that parapets are required on all four sides. Furthermore, Dollar General has a limited budget. Mario did say that they would be willing to entertain the idea of a standing seam roof. Mario also gave three other options: 1) Pull the project completely; 2) Seek legal ramifications; 3) Redesign the entire building.

Mayor Gates stated that the developers knew of this requirement. Councilmember Carter stated that other new businesses are gladly working with Staff to incorporate the idea of the Hualapai Mountain Road Design Review Corridor. Councilmember Lyons stated that he knows people in this area that want this store to happen.

Paul Wassell, 2604 Carol Lane voiced his appeal with the administrative decision, also.

Alan Winder, 2705 W Hwy 66, Mohave County, stated that he visited Dollar General's website and saw that the stores are sold to individual franchise owners and the reason the developers are appealing is because the store has already been sold for a certain amount. The additions were not included in the sale price.

The Public Hearing was closed and after no further discussion, Councilmember Baker made a MOTION to APPROVE Resolution No. 4090. Vice Mayor Spear SECONDED, Councilmember Moon voted NAY and Resolution No. 4090 was APPROVED by a vote of 6-1.

(Resolution No. 4090)

b) Ordinance No. 1476

A request from Stockton Jagerson, LLC, property owner, and Mohave Engineering Associates, Inc., applicant, for the rezoning of certain property from R-R: Rural Residential to R-1-8: Residential, Single Family, 8,000 square foot lot minimum. The proposed rezoning would allow for consideration of a preliminary plat for Eagle View, Tract 1997. The subject property totals 113.25 acres in size and is located east of Stockton Hill Road and north of Jagerson Avenue beyond Mohave Community College. The subject property is further described as a portion of Government Lots 4 & 5, Section 19, T 22N., R. 16W., of the G. & S.R.M., Mohave County, Arizona.

Paul Beecher stated that Staff recommends approval of Ordinance No. 1476.

The Public Hearing was opened. Citizen comments included:

Pete Proffitt of Mohave Engineering and Associates wanted Council to know that he was available for any questions.

After no further discussion, the Public Hearing was closed. Councilmember French made a MOTION to APPROVE Ordinance No. 1476. Councilmember Lyons SECONDED and it was UNANIMOUSLY APPROVED.

(Ordinance No. 1476)

c) Resolution No. 4092

PRELIMINARY PLAT FOR EAGLE VIEW, TRACT 1997: A request from Stockton Jagerson, LLC, property owner and subdivider, and Mohave Engineering Associates, Inc., project engineer, for approval of a preliminary plat for a single family residential subdivision to be known as Eagle View, Tract 1997. The subject property totals approximately 86.19 acres in size and is located east of Stockton Hill Road and north of Jagerson Avenue beyond Mohave Community College. The subdivision is proposed to have 327 single family residential lots ranging from 9,144 to 22,948 square feet in size. The subject property is further described as a portion of Government Lots 4 & 5, Section 19, T 22N., R. 16W., of the G. & S.R.M., Mohave County, Arizona.

Paul Beecher requested that Council table Resolution No. 4092, Item 6c, and Resolution No. 4094, Item 6e, due to some issues that need to be ironed out. Councilmember Baker asked Tom Duranceau if this could be done by the next Council meeting. Tom indicated that it could take longer. Paul stated that it could be ready for the first Council meeting in May.

The Public Hearing was opened. Citizen comments included:

Pete Proffitt, Mohave Engineering and Associates, voiced his displeasure with the delay in approving Resolution No. 4092. Pete stated that the conditions listed in the Resolution are standard and that they can adhere to all of the mentioned conditions.

Tony Koontz, 1702 Colby Dr, stated that he is the owner of the subdivision and is opposed to waiting, also.

After some discussion regarding lengthening the application process to ensure consistency and a quality product, the Public Hearing was closed.

Councilmember French made a MOTION to APPROVE Resolution No. 4092. Councilmember Lyons SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4092)

d) **Resolution No. 4093**

PRELIMINARY PLAT FOR LA COSTA, TRACT 6000: A request from Kenneth R. Herskind, property owner, and Double R Engineering, Inc., project engineer, for approval of a preliminary plat for a multiple family residential subdivision to be known as La Costa, Tract 6000. The subject property totals approximately 12.90 acres in size and is located north of Wilshire Avenue, east of Harvard Street, west of Fairfax Street and south of Sycamore Avenue. The subdivision is proposed to have 58 multiple family lots ranging from 6,000 to 8,648 square feet in size. The subject property is further described as a portion of the Northwest Quarter of the Southeast Quarter of Section 12, T.21N., R.17W., of the G. & S.R.M., Mohave County, Arizona.

Paul Beecher stated that the Planning and Zoning Commission recommended approval of Resolution No. 4093 with the noted conditions and staff concurs.

The Public Hearing was opened and after no discussion, closed.

Councilmember Carter made a MOTION to APPROVE Resolution No. 4093 with the noted conditions. Vice Mayor Spear ~~SECONDED~~ and it was UNANIMOUSLY APPROVED.

(Resolution No. 4093)

e) **Resolution No. 4094**

PRELIMINARY PLAT FOR GRANITE BLUFFS III, TRACT 1996: A request from Kingman Associates III, LLC, property owner and subdivider, and Jeffery S. Carlton RLS, agent, for approval of a preliminary plat for a single family residential subdivision to be known as Granite Bluffs III, Tract 1996. The subject property totals approximately 34.54 acres in size and is located south of Mission Boulevard and west of Granite Bluffs, Tract 1979. The subdivision is proposed to have 83 single family residential lots ranging from 10,000 to 55,700 square feet in size. The subject property is further described as a Portions of Government Lots 6, 7, 10 and 11, Section 19, T.21N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

As per the discussion in Item 6c, this item was requested to be tabled until the first meeting in May.

The Public Hearing was opened and after no discussion, closed.

Vice Mayor Spear made a MOTION to TABLE Resolution No. 4094 until the first meeting in May. Councilmember Lyons ~~SECONDED~~ and it was UNANIMOUSLY APPROVED.

(Resolution No. 4094)

f) **Resolution No. 4095**

PRELIMINARY PLAT FOR SOUTHERN VISTA II, TRACT 1999: A request from First American Title Insurance Agency of Mohave, property owner, and Mohave Engineering Associates, Inc., project engineer, for approval of a preliminary plat for a single family residential subdivision to be known as Southern Vista II, Tract 1999. The subject property totals approximately 24.00 acres in size and is located east of N. Central Street and north of Karen Avenue. The subdivision is proposed to have 98 single family residential lots ranging from 6,700 to 16,402 square feet in size. The subject property is further described as a portion of the North Half of the East Half of Section 20, T.21N., R.16W., of the G. & S.R.M., Mohave County, Arizona.

Paul Beecher stated that the Planning and Zoning Commission recommended approval of Resolution No. 4095 with the noted conditions and staff concurs.

The Public Hearing was opened. Citizen comments included:

Jeff Goldberg, 730 E. Beale, stated that he was available for questions if necessary.

After no further discussion, the Public Hearing was closed.

Councilmember Carter made a MOTION to APPROVE Resolution No. 4095. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4095)

g) Resolution No. 4096

A request from Smith and Sons Builders, applicant, and Diane Noyse, property owner, for a Conditional Use Permit to allow construction of an attached residential garage and breezeway to a residence on property zoned C-2: Commercial, Community Business. The subject property totals 8,214 square feet in size and is located at 632 E. Beale Street. The subject property is further described as Kingman Terrace Addition, Block 5, Lot 8.

Paul Beecher stated that staff recommends approval of Resolution No. 4096.

The Public Hearing was opened and after no discussion, closed.

Councilmember Baker made a MOTION to APPROVE Resolution No. 4096. Councilmember French SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4096)

h) Resolution No. 4097

A request from England Holding Company, adjacent property owner and applicant, for approval of the abandonment of a portion of Parcel "B", in Arroyo Vista, Tract 1977. This abandonment is proposed to allow for the placement of a permanent entry identification sign for a residential subdivision, Arroyo Vista, Tract 1977. The easement is located at the corner of Arroyo Vista Lane and Hualapai Mountain Road within a portion of the SW ¼ of Section 20, T.21N., R. 16W., of the G. & S.R.M., Mohave County, Arizona.

Paul Beecher stated that staff recommends approval of Resolution No. 4097.

The Public Hearing was opened and after no discussion, closed.

Councilmember Lyons made a MOTION to APPROVE Resolution No. 4097. Vice Mayor Spear SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4097)

i) Ordinance No. 1479

A proposed text amendment to the Kingman Zoning Ordinance Section 26.000: General Development Standards concerning modification of setback requirements for swimming pools from structures on residential properties.

Tom Duranceau stated that currently, the Kingman Zoning Ordinance treats pools like any other accessory structure as far as setbacks are concerned. A pool's water edge is not allowed to be closer than six feet from any support columns or walls of any other building or structure. This text amendment, if approved, would modify the Zoning Ordinance specifically for pools and spas so that they may be as close to another structure as the depth of the water of the pool or spa. If a pool or spa is four feet deep, it would be allowed to be no closer than four feet to any other structure. This text amendment would also allow the pool to be closer than its depth to another structure as long as special engineering is provided. This engineering would need to be reviewed and approved at the time of a building permit application for the pool or spa. No other setback changes are proposed, therefore, pools would continue to be treated like other accessory structures in terms of the required setbacks from property lines. This information would be clarified in the text amendment as well. Finally, because the Zoning Ordinance does not define the terms "swimming pool" or "spa" this information would be added for further clarification.

In researching this proposal, staff contacted officials in Mohave County and Bullhead City and found that the proposed text amendment would generally reflect how these other jurisdictions handle the location of pools. The effect of this change would be to bring Kingman more in line with other jurisdictions in the area. This

change will also not conflict with the requirements of the current 1997 Uniform Building Code or the adopted 2003 International Building Code that will go into effect on May 1, 2005.

The Planning and Zoning Commission reviewed this request and recommended approval. Staff concurs.

The Public Hearing was opened and after no discussion, closed.

Mayor Gates questioned if safety is addressed in this text amendment. Tom stated that the safety requirements still have to be met by law.

Councilmember French made a MOTION to APPROVE Ordinance No. 1479. Vice Mayor Spear SECONDED and it was UNANIMOUSLY APPROVED.

(Ordinance No. 1479)

j) Resolution No. 4099

A request for a Conditional Use Permit to allow a community center and recreational facility for Castle Rock Village, Tract 1990, on property zoned R-1-8

Paul Beecher stated that staff recommends approval of Resolution No. 4099.

The Public Hearing was opened and after no discussion, closed.

Councilmember Carter made a MOTION to APPROVE Resolution No. 4099. Councilmember Lyons SECONDED and it was UNANIMOUSLY APPROVED.

(Resolution No. 4099)

7. CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC

There were no Calls to the Public at this time.

8. Reminder of meeting on April 8th for the continuation of the council advance with Mike Letcher.

The reminder was noted by all.

9. ANNOUNCEMENTS BY MAYOR & COUNCILMEMBERS

There were no announcements.

Councilmember Carter made a MOTION to RECESS into Executive Session. Councilmember Baker SECONDED and it was UNANIMOUSLY APPROVED.

Recess: 7:18 PM

10. EXECUTIVE SESSION (per A.R.S. § 38-431.03 A.3)
-Legal Advice – Airway Underpass

Reconvene: 7:41 PM

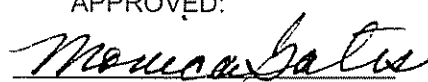
Councilmember French made a MOTION to ADJOURN. Councilmember Moon SECONDED and it was UNANIMOUSLY APPROVED.

ADJOURNMENT: 7:42 PM

ATTEST:


Toni Weddle, City Clerk

APPROVED:


Monica Gates, Mayor



STATE OF ARIZONA)
COUNTY OF MOHAVE)ss:
CITY OF KINGMAN)

CERTIFICATE OF COUNCIL MINUTES

I, Angela Gray, Recording Secretary of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the Common Council of the City of Kingman held on Monday, April 4th, 2005.

Dated this 13th day of April, 2005



Angela Gray, Deputy City Clerk

CITY OF KINGMAN
MEETING OF THE COMMON COUNCIL

DATE: April 4, 2005

PLEASE PRINT

-
- 1 GLORIA B. TROY
 - 2 MARCO DEFACCU
 - 3 Sam Wassell
 - 4 CHIBLEY H VPP
 - 5 TEEE Goldberg
 - 6 Jim Chapman
 - 7 Kenneth Herkind
 - 8 Miyako Matsui
 - 9 PETER PROFFIT
 - 10 GRIG SCHETTER
 - 11 Glorie Ripps
 - 12 TONY KUC
 - 13 STEVE Smith

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APPROVAL OF THE CITY OF KINGMAN ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF KINGMAN, an agreement among public agencies which, has been reviewed pursuant to A R S § 11-951 through § 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 7th day of April, 2005.

Robert A. Tjha
City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

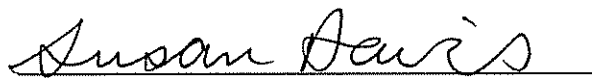
INTERAGENCY SERVICE AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0228TRN (**JPA 04-147**), an Agreement between public agencies, i.e., The State of Arizona and The City of Kingman, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: May 2, 2005

TERRY GODDARD
Attorney General


Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
902998